

Proposed changes to the Wellness regulations (COMAR 31.11.14)

Prominent Carrier: The regulations will be modified as indicated below so that a prominent carrier is only required to offer one health benefit plan with a qualifying wellness benefit. Both prominent carriers and other carriers may offer other benefit plans with a qualifying wellness benefit.

COMAR 31.11.14.05

- A. A prominent carrier shall offer a wellness benefit to a small employer for [each] a health benefit plan offered in Maryland.

Wellness: With the enactment of HB 610/SB 638 (2009), the definition of a “wellness benefit” has been changed in small group statute (specifically, Insurance Article § 15-1201). The regulations will be modified to reflect that change as indicated below. We do not believe this change in the law requires any changes in wellness benefits currently offered, but would appreciate comment on this issue.

COMAR 31.11.14.02B(11): “Wellness benefit” has the meaning stated in Insurance Article, § 15-1201, Annotated Code of Maryland, and complies with the requirements set forth in Regulations .03 and .04 of this chapter.

Proposed changes to the Partnership regulations (COMAR 10.25.01)

Executive Directors of Non-Profits: Currently, as outlined in the Registry Manual posted on the Partnership website, Executive Directors of non-profit entities must be treated as employees: their full wages must be used for purposes of calculating the subsidy, even if their annual wages are greater than \$60,000. Commission staff is proposing new regulatory language to now treat Executive Directors of non-profit entities the same as “eligible owners” under the Partnership. This new rule will now allow Executive Directors to use either the \$60,000 trim or the adjusted gross income (AGI) from their most recently filed federal income tax return, whichever is lower, as their “wages.”

The proposed regulatory language is as follows:

COMAR 10.25.01.02B

(10) Eligible Owner.

(a) “Eligible owner” means (i) a person with a 20 percent or greater financial interest in a small employer who works at least 30 hours per week for that small employer, or (ii) an Executive Director of a nonprofit organization that has been determined by the Internal Revenue Service to

be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code who works at least 30 hours per week for that small employer.

(b) “Eligible owner” includes an eligible owner's spouse who works at least 30 hours per week for the small employer.

Minimum Countable Wage: Currently, the Partnership regulations state that an “Employee Wage” means, for a given eligible employee, the employee’s **estimated** annual earnings at the time of initial or renewal application, including any salary, wages, commissions, bonuses, and reportable tips. For purposes of the Partnership, this definition also includes income received from an employee’s ownership interest in the business, (if the employee does not meet the 20% ownership rule, which requires a different method of calculating annual wage). If an employee receives income in the form of commissions, profit sharing, bonuses, or tips, in addition to salary and/or wages, these must be included in the reported wages. In reporting wages for these employees, an employer may estimate the hourly or weekly wage including this additional income. Alternatively, the employer may take a representative quarterly wage from the most recent Quarterly Wage Report (QWR) if the base pay and the average hours worked are similar and this additional income was included in the QWR. Because of the statutory requirements relating to minimum wage, the wages reported for an employee should very rarely if ever correspond to an hourly wage lower than the minimum wage. Therefore, Commission staff is proposing (1) new regulatory language to now define a “minimum countable wage”; (2) new regulatory language for applying the minimum countable wage in the calculation of the average wage of the business; and (3) a program design factor establishing this minimum countable wage at \$11,310 effective October 1, 2009. Reported wages that are below this annual wage floor would be increased to the minimum countable wage for purposes of computing the average annual wage for the business. The minimum would apply to all eligible employees, including owners, partners, and spouses employed in the business.

The proposed regulatory language is as follows:

COMAR 10.25.01.02B

New definition: “Minimum countable wage” means an amount published by the Commission that represents the minimum annual wage for an eligible employee that can be used to calculate the average wage of a small employer.

Revised current definition for 10.25.01.02B(16)(a): “Employee wage” means, for a given eligible employee, the employee’s estimated annual earnings at the time of initial or renewal application for the Premium Subsidy Program, including any salary, wages, commissions, bonuses, profit sharing, and reportable tips.

COMAR 10.25.01.10B&C: For employees who are eligible owners, the wage used in calculating the average wage of business shall be either:

(1) the lesser of: (a) the eligible owner's countable wage; or (b) the eligible owner's adjusted gross income, or

(2) the minimum countable wage, whichever is greater.

C. For all other eligible employees, the wage used in calculating the average wage of business is the greater of: (1) the employee wage; or (2) the minimum countable wage.

Domestic Partners: Currently, domestic partner riders to employee-only coverage are not eligible for a Partnership subsidy. Commission staff surveyed the major small group carriers in the fall of 2008 and found that some of these carriers do, in fact, offer riders allowing small employers to cover domestic partners. The carriers indicated that the cost to cover domestic partners is the same as the premium for employee plus spouse coverage, and the cost to cover dependents of domestic partners is the same as the premium for family coverage. Therefore, Commission staff is proposing new regulatory language to allow a premium subsidy for domestic partner coverage or dependents of domestic partner coverage.

The proposed regulatory language is as follows:

COMAR 10.25.01.06 Employee Selection of Other than Individual Coverage.

A. An eligible employee may apply for a premium subsidy for other than individual coverage if the eligible employee's family adjusted gross income does not exceed the maximum income for other than individual coverage.

B. An eligible employee applying for a premium subsidy for other than individual coverage shall comply with requirements considered necessary by the Commission to verify the reported family adjusted gross income.

C. An eligible employee with a family adjusted gross income greater than the maximum income for other than individual coverage is eligible for the premium subsidy for individual coverage if the eligible employee satisfies the conditions of Regulation .05 of this chapter.

D. If a carrier offers coverage for domestic partners and the employer selects that coverage, a domestic partner is a spouse for the purposes of this chapter.